

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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KENNETH WRIGHT,

Plaintiff,

DECISION AND ORDER

04-CV-6332L

v.

EASTMAN KODAK COMPANY,

Defendant.

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GARY THOMPSON,

Plaintiff,

v.

04-CV-6333L

EASTMAN KODAK COMPANY,

Defendant.

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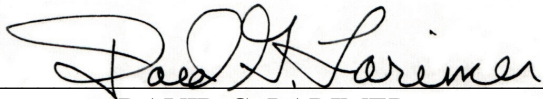
By Decision and Order entered April 23, 2008 (Dkt.#43), I granted defendant Eastman Kodak Company's motion for summary judgment and dismissed the complaints in these actions. Judgment was entered on April 25, 2008 (Dkt. #44).

On May 7, 2008, both plaintiffs filed a notice of appeal from the final judgment of this court. The Second Circuit has issued a scheduling order on the case.

Approximately three weeks after filing the notice of appeal, plaintiff filed what was styled as a motion to reconsider (Dkt. #46), purportedly under FED. R. CIV. P. 60(b)(6).

Because plaintiffs have filed a notice of appeal, this Court lacks jurisdiction to entertain any further applications or motions relative to the case. *See Pittock v. Otis Elevator Co.*, 8 F.3d 325, 327 (6<sup>th</sup> Cir. 1993) ("the district court did not have jurisdiction to rule on the Rule 60(b) motion after the Pittocks filed a notice of appeal concerning the dismissal order"); *Johnson v. Lewis*, No. 06-22, 2007 WL 106524, at \*1 (D.D.C. Jan. 11, 2007) (court lacked jurisdiction over plaintiff's motion to reconsider filed on November 16, since plaintiff's notice of appeal became effective on October 23); *LaSalle Bank, N.A. v. Capco American Securitization Corp.*, No. 02 CV. 9916, 2006 WL 1227539, at \*1 (S.D.N.Y. May 5, 2006) ("A district court can ordinarily reconsider any order, but after a party appeals a final judgment the court cannot") (footnote omitted). For that reason, plaintiffs' motion to reconsider is denied.

IT IS SO ORDERED.

  
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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
July 18, 2008.